

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE PORK ANTITRUST
LITIGATION

This Document Relates To:
ALL ACTIONS

No. 0:18-cv-01776

Hon. John R. Tunheim
Magistrate Judge Hildy Bowbeer

**CLASS PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT
OF UNOPPOSED MOTION FOR AN ORDER PERMITTING PRODUCTION OF
DOCUMENTS BY THIRD PARTY COMPEER FINANCIAL, ACA**

On November 23, 2020, Direct Purchaser Plaintiffs, Commercial and Institutional Indirect Purchaser Plaintiffs, and Consumer Indirect Purchaser Plaintiffs (collectively, “Class Plaintiffs”) served a document subpoena on non-party Compeer Financial, ACA (“Compeer”). *See* Declaration of Stephen M. Owen (“Owen Decl.”), Ex. A. As an entity regulated by the Farm Credit Act, Compeer notified Class Plaintiffs that it may not produce responsive documents except pursuant to a court order permitting such a production to be made. Compeer, however, does not oppose entry of an order permitting it to produce nonprivileged, responsive documents the parties have identified. Owen Decl., Ex. B (email dated June 9, 2021 from Compeer counsel to S. Owen). Therefore, pursuant to Fed. R. Civ. P. 45, Class Plaintiffs seek an order permitting Compeer to comply with the subpoena consistent with the agreement between Class Plaintiffs and Compeer and as required by 12 C.F.R. § 618.8330(b). Additionally, Compeer is entitled to the protections of the Protective Order in responding to Class Plaintiffs’ subpoena. (*See* Dkt No. #212).

A party may “obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case . . . [and] [i]nformation within this scope of discovery need not be admissible in evidence to be discoverable.” Fed. R. Civ. P. 26(b)(1). “Courts construe the Rule broadly to encompass any matter that bears on, or that reasonably could lead to other matter[s] that could bear on, any issue that is or may be in the case.” *Arctic Cat, Inc. v. Bombardier Recreational Prods, Inc.*, No. 12-cv-2692 (JRT/LIB), 2013 WL 12153519, *2 (D. Minn. Nov. 7, 2013) (internal quotations and citations omitted).

The subpoena consists of four requests seeking documents relevant to the claims asserted in this case, including documents reflecting the work Compeer performed on behalf of Defendants, such as analyses of pricing, production, supply, and demand in the Pork Market during the Relevant Period. *See* Owen Decl., Ex. A. Class Plaintiffs have met and conferred with counsel for Compeer and have agreed on categories of documents and an accompanying document custodian that constitute the parameters of responsive documents. Class Plaintiffs reserve their right to make narrow requests for additional documents that may result from Compeer’s production, and Compeer reserves its right to object to such requests. In the event Compeer objects to Class Plaintiffs’ requests for additional documents, Class Plaintiffs and Compeer agree to meet and confer in good faith about the requests. *See* Owen Decl., Ex. B.

Federal Rule of Civil Procedure 45(a) allows the issuance of subpoenas for production of documents in a non-party’s custody or control. Compeer does not seek an order quashing or modifying the subpoena. Because Compeer does not object to

production under the negotiated parameters, Defendants do not object to the relief sought in this motion, and the information to be produced is responsive to a properly served subpoena, the Court should permit Compeer to comply with the subpoena consistent with the agreement between Class Plaintiffs and Compeer.

Class Plaintiffs respectfully request that the Court enter an order permitting Compeer to produce documents responsive to Class Plaintiffs' subpoena consistent with the agreement between Class Plaintiffs and Compeer and as required by 12 C.F.R. § 618.8330(b).

Dated: June 15, 2021

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